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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined first to third periodic reports of Thailand

Addendum

Information received from Thailand on follow-up to the concluding observations*

[24 December 2013]

1. The Committee on the Elimination of Racial Discrimination issued its recommendations with regard to Thailand's combined first to third periodic reports on the implementation of the Convention at its eighty-first session. The Committee requested Thailand to prepare an additional report on three issues in the Committee's recommendation: (1) the situation of Thai women of Malay ethnic origin (paragraph 20); (2) special laws application in the Southern Border Provinces (paragraph 21); and (3) asylum seekers and refugees (paragraph 25).

I. The situation of Thai women of Malay ethnic origin (paragraph 20)

Necessary measures and legislative measures regarding equal treatment and non-discrimination against Thai women of Malay ethnic origin

2. The Constitution of the Kingdom of Thailand guarantees equal rights for both men and women, and proscribes illegitimate discrimination vis-à-vis individuals on the basis of their origin, race, language, sex, age, disabilities, physical conditions or health, personal status, economic or social standing, religious belief, education and training, or political affiliations which are not in violation of the Constitution (section 30)

Implementation

3. Thai women of Malay ethnic origin in the Southern Border Provinces (SBPs) are treated on an equal footing with their Thai counterparts in other parts of the country. Since the outbreak of the situation of violence in their localities in 2004, their well-being has been

* The present document is being issued without formal editing.

the priority for all parties concerned, ranging from public and private entities, educational institutions, the civil society, women friends' groups in all of the country's regions and international organizations. These agencies and organizations have focused their efforts on improving these women's quality of life. They have helped to empower these women in many areas such as raising awareness of their own potential; professional development for creating income; leadership promotion; and strengthening of their societal participation in order to re-establish normal and decent livelihood based on human dignity. These activities also take into account cultural principles as their principal concern. Specific implementation of these policies is as follows.

1. Legislation and measures

4. A Draft Promotion of Opportunities and Gender Equality Bill has been proposed to eliminate discrimination on the basis of gender or sexual orientation. Such discrimination is defined as: an action or failure to act to differentiate among, discriminate against, not admit, and restri rights or deprive individuals of any specific rights and benefits directly or indirectly on account of one's gender or sexual orientation, as well as engagement in violence and sexual threats, all of which are illegal acts. Pursuant to this draft Bill, the prescription of any regulations that may be deemed discriminatory within public or private organizations is prohibited. Effective implementation of this legislation will be enhanced by the establishment of a committee vested with the power to determine policies and measures, provide implementation guidance for concerned agencies, and deliberate upon acts falling within the scope of the provisions of the Bill. Sanctions against perpetrators who violate other individuals' rights or those persons who discriminate against other individuals are specifically stipulated. Where a violation thereof is committed against individuals under the perpetrator's responsibility or under their authority and/or supervision, the perpetrator shall be subject to more severe punishment than would be otherwise imposed upon perpetrators in general so the stronger punishment aims to pre-empt the abuse of power on those with greater authority. The proposed legislation also set up a fund designed to finance activities related to gender-based opportunities and equality between genders.

5. In addition, the Local Administrative Organizations Bill has been proposed. This draft legislation contains specific measures to eradicate obstacles and promote individuals' abilities in the exercise of their rights in the same vein as others (pursuant to section 30). All actors concerned have made an effort to ensure a male-female ratio regulating gender-based participation and employment, starting from the local administration level. A 1:1 gender ratio for council members has been set as a goal in sub-district administrative organizations.

2. Activities and projects

6. The Royal Thai Government has conducted campaigns and a series of trainings to enhance knowledge and understanding concerning the gender-based discrimination. These programs are intended to enable women to participate in politics: for example, political parties are encouraged to determine a relative ratio of men-to-women candidates running in constituencies during the elections. As for the implementation related to women in the SBPs, the Government, in conjunction with international organizations, has promoted women's roles and enhanced equality. An exemplary initiative is the 'Islam-based women's potential development in the 14 Southern provinces project,' developed by the Office of Women's Affairs and Family Development, the Ministry of Social Development and Human Security (MSDHS) in cooperation with the United Nations Development Programme (UNDP). This project covers the period from September 2012 to June 2015. The Office of Women's Affairs and Family Development provided a total budget of 1,200,000 baht (USD 38,700) while the UNDP allocated a total budget of USD 242,763 in support of the development of women's potential for their participation in public activities.

The goal is to help women play a perceivable part in community development as well as administrative, government-related, and political decision-making at different levels. This project also seeks support from religious leaders, community leaders, and agencies concerned in an attempt to enhance women's opportunities and their participation in economic and social development in line with the Islamic context. In addition, it helps to promote women's roles in their community with the eventual aim of women being elected to local and national offices. This project also received strong political support. The Prime Minister presided over the signing ceremony of the cooperation framework of this program between the MSDHS, the UNDP, and the Muslims network in 14 Southern provinces on 11 December 2012. After the launch of the program, the following activities have been carried out:

(i) The MSDHS and the UNDP, in conjunction with religious leaders, community leaders, and agencies concerned deliberated upon methods to achieve gender equality in the development of Muslim societies in Thailand. These methods include trainings on gender-based roles in family as well as socio-economic and political development. The objective of these methods is attitude adjustment among Muslim women, community leaders, provincial Islamic committee members and staff members of the Provincial Social Development and Human Security Offices in 14 Southern provinces;

(ii) A workshop on leadership development for Muslim women in 14 Southern provinces was organized in cooperation with various group representatives such as Muslim women's representatives, community leaders, representatives of Provincial Central Islamic Committee members, Thailand's Central Islamic Committee members, and MSDHS representatives. With a view to further developing leadership courses for Muslim women, participants at the workshop study requirements, needs, and lessons learned from both inside and outside the country;

(iii) A four-day training course on "the development of Muslim women's potential as local level community development leaders" was organized to cover a variety of skills related to enhancing women's political participation in 14 Southern provinces. These skills include analytical thinking, public speaking, and project proposal writing for requesting financial support. The participants were required to apply the knowledge from this training to activities in their local communities. They should share lessons learned and exchange practical work experiences among Muslim women's networks in addition to providing inputs for developing future courses;

(iv) The 'Islam-based development of women's potential in the 14 Southern provinces project' induced associations and gatherings of Muslim women at the regional level. In this connection, the "Muslim Women's Association" was established on 15 May 2013 to be the focal point for providing assistance to the Muslim Women in 14 Southern Provinces Network. Also, the Southern Muslim women's potential development project has been developed in order to enhance the potential of the Muslim Women's Association in the promotion of Muslim women's socio-economic and political participation. The project has been submitted for financial support from the National Women's Development Fund Committee, which was initiated by the Government to promote women's roles in economic activities and political participation.

7. With respect to the academic perspective, seminars and conferences have been organized to promote studies on the violence-induced impact on women in the SBPs. The aim is to collect data on situations, problem-related conditions, and women's roles across the localities in different dimensions in relation to the situation of violence in the areas. Other topics for studies include impact on women, approaches to the promotion of the roles of women's groups, and peace-building networks. The Deep South Watch within the Prince of Songkla University and independent news centres run by groups of journalists have been set up to collect data and information, to recommend solutions to the problems, as well as

to enhance public awareness on a variety of problems. Their work also helps to encourage collective action to redress the current violent incidents in the areas concerned.

The Provision of assistance related to the situation of violence in the Southern Border Province

8. Thailand has attached particular importance to providing redress and remedy for those victims of the situation of violence in the SBPs, especially women. The Constitution of the Kingdom of Thailand, B.E. 2540 (1997), Section 245, paragraph two and the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) Section 40 stipulate the rights of individuals to receive state assistance as a result of sufferings caused by criminal wrongdoing by others without their involvement, and for which they have not had access to other means of compensation for the purposes of the mitigation thereof.

9. This section will lay out information on various assistance programs in the Southern provinces of Thailand. Many programs benefit specifically Thai women of Malay ethnic origin.

1. Operational mechanisms

10. The Government established "the Committee on Policy and Remedy for People Affected by the Incident in Southern Borders Provinces" as the primary focal entity to determine the budget and to set criteria for the provision of assistance. This Committee comprises representatives from all agencies concerned e.g. the Ministry of Interior, the Ministry of Social Development and Human Security, the Ministry of Education, the Ministry of Public Health, and the Ministry of Justice. It is mandated to provide compensation and assistance in the cases of death, injury, rehabilitation for injured individuals or persons with disabilities, as well as monthly sustenance pay, pay for persons with disabilities, pay for affected individuals' children, and financial support for foster families.

11. The "Advisory Council for Peace Promotion in the Southern Border Provinces" was set up to deliberate upon and adjudicate problems related to religious issues, to receive opinions, to exchange knowledge, to promote equality, rights and liberties as well as to propose solutions. This Council also set up an Islamic financial institution. At the same time, it studies, analyses, and redresses economic conditions within the localities. In addition, the Council improves public administration practices in the provinces in question. Subsequently, the Council was changed to the "Advisory Council for the Administration and Development of the Southern Border Provinces." To ensure gender perspective, one representative of women's groups from each province will be part of the Council.

2. Different arrangements for financial assistance

Remedies for people suffering damages and affected by the situation of violence in the Southern Borders Provinces in accordance with the Cabinet Resolution

12. In 2012, the Cabinet passed a resolution (dated 24 April 2012) approving additional criteria and methods for the provision of remedies for people suffering damage and affected by the incidents in the SBPs, providing for a facility covering 2,080 million baht (USD 67,100,000) involving four groups of individuals: (1) members of the public; (2) state officials; (3) individuals suffering from the acts by state officials; and (4) perpetrators of specific violent incidents, individuals in custody or detention, individuals prosecuted as an accused, a defendant in custody or detention without having carried out any wrongdoing.

13. A budget of one billion baht (USD 32,260,000) was earmarked to help these groups of individuals. About half of the amount has been disbursed as compensation expenses for

individuals suffering from the actions of state officials or other specific cases. This initial remedy provides for assistance arrangement of 500,000 baht (USD 16,130) per person. If the committee on Policy and Remedy for People Affected by the Incidents in the Southern Borders Provinces is of the opinion that an incident in question is attributable to an action carried out by state officials or a violation of human rights, the Committee may approve an additional remedy but not exceeding 7 million baht (USD 225,810). These two types of remedies may be combined but not to exceed 7.5 million baht (USD 241,940). For the general public affected by the violence, a total of 500 million baht (USD 16,130,000) has been allocated as compensation. Out of this amount, 200 million baht (USD 6,451,615) is for state officials suffering from the damage, and 300 million baht (USD 9,677,420) is set for individuals in custody or detention, or individuals prosecuted but subsequently proven not to have been involved in the wrongdoing, or whose cases are withdrawn or dismissed.

14. The affected individuals in the groups 2 – 4 above have already received remedy in the fiscal year 2012. The remaining affected individuals under group 1 – members of the general public –are now entitled to an additional remedy arrangement in all cases involving death and disabilities at 500,000 baht (USD 16,130), as approved by the aforementioned cabinet resolution. This additional payment arrangement is divided into four 100,000 baht instalments (USD 3,225 each) over 4 fiscal years. This represents an increase to 500,000 baht (USD 16,125) remedy payment per case for death cases in comparison to the original 100,000 baht remedy payment (USD 3,225) per case.

Compensation pursuant to the Compensation and Expenses for Injured Persons and the Accused Act B.E. 2544 (2001)

15. This Act prescribes offences inflicted on damaged parties for the purpose of determining compensation and expenses for defendants in criminal cases. With regard to the three SBPs, which face multiple challenges, the Government has provided assistance through this Act totalling over 34 million baht (USD 1,096,775). In 2012 – 2013, approximately 4,000 individuals received financial assistance, 191 of whom were women.

Contingency assistance money in accordance with special measures for orphaned descendants and widowed women

16. According to a report by the Ministry of Social Development and Human Security (MSDHS) as of 5 August 2013, the number of people affected by the situation of violence in the SBPs comprises 5,385 orphans and 2,698 widows. During 2004 – 2012, these individuals received remedy assistance through special measures by the MSDHS in accordance with two Cabinet Resolutions (dated 31 May, 2005, and 1 August, 2007) and the Committee on Policy and Remedy for People Affected by the Incidents in Southern Border Provinces. About 8,500 individuals have received 183,215,300 baht (USD 5,910,170) in various forms of payment: contingency assistance money for cases involving death and injuries; consolation and post-injury physical rehabilitation payments; continued monthly sustenance payments for orphaned descendants' undergraduate education; monthly sustenance payments for victims with disabilities, and financial support for foster families. Assistance in the sum of 171,148,200 baht (USD 5,520,910) was additionally provided to 8,538 individuals in 2013. As such, a total sum of 354.3 million baht (USD 11.4 million) was provided in accordance with the special measures (as of 5 August, 2013).

Occupational and income-generation assistance from the civil society and the private sector

17. The support under this category, many of which target women in the SBPs, includes the following:

18. The Southern Border Provincial Women for Peace Association has provided psychological support, advice, materials, and other forms of help to affected individuals. These include:

(i) A remedial action to orphans suffering bereavement in the aftermath of the violent incidents;

(ii) Assistance to widows;

(iii) Remedial action to the affected individuals whose livelihoods became vulnerable due to the loss of their household heads. The Association has provided essential psychological counselling and moral support from women's perspectives and ethos. In addition, the Association also disseminated information on how to lodge a request for support within the justice system. Subsequently, the Association promoted income-generating opportunities among affected individuals who may have suffered income loss as a result of their inadequate career skills or lack of legal knowledge and justice procedures to pursue their rights. Further occupational and income-generating opportunities were created by relying on local resources, wisdom and production line grouping. This approach proved successful and served as an example for women's groups in other localities. Exemplary groups included the Yaha District Food Processing Group and the Basai Sub-District Textile Manufacturing Group in Yala Province.

19. In addition, women's groups who have borne the brunt of the violent incidents in the SBPs came together to conduct remedial activities to provide support to other groups of affected individuals. These groups include the Women's Connectivity for Peace Group (Sor Six), the Women and Peace Group, the Women's Network Group for the Purposes of Putting an End to Violence and the Promotion of Peace-building in the Southern Border Provinces, Luk Riang (Tree Bean) Group, etc.

20. As for the private sector, projects designed to promote and develop quality of life through occupational promotion have been put in place. One prominent example is the Taeng Mo Samannachan ("Water Melon Restorative Connectivity") Group, which became operational in 2005 – 2006 in the Ban Bokoh Community, Sako Sub-District, Sungai Padi Dsitrict, Narathiwat Province. A professional machine-sewing group had already existed in the area, but Siam Hand (Taeng Mo) Co., Ltd., a private company, appreciated the individual's roles as a resolution for facing women's challenges. It therefore started working with the 4th Army Region to promote machine-sewing housewives' groups by admitting 12 members of the already existing group to a 60-day training course on the company's factory premises in Nakhon Pathom Province. This course covered both skill training and managerial knowledge. As the group members had already had a relatively good background in sewing techniques, they were able to master advanced sewing techniques within 30 days and returned to Ban Bokoh Community with a start-up fund for the construction of a career-training building for the Taeng Mo Samannachan Group. Other forms of support include the provision of sewing machines, capital, and pieces of work. This type of support was adequate for the group to achieve a brisk revival. The group has by now grown into a community-based enterprise with strong, sustainable foundation, comprising over 50 members. As a consequence of the promotion of women's potential and roles in the SBPs, women have increasingly been more engaged in work and employment participation. Recent statistical figures reveal that locality-based employment opportunities across the 3 provinces: Yala, Narathiwat, and Pattani in 2008 all pointed to an impressive trend. Women have been empowered to have access to job application registration systems and recruitment services. As of now, as many as 3,541 women, in comparison with 2,209 men, have been admitted to the local workforce.

3. Mental remedy and rehabilitation

21. The Ministry of Public Health has developed its mental health programs and mental rehabilitation practices for individuals affected by the situation in the SBPs. The Ministry integrates mental healthcare systems within those localities. This policy has created a body of knowledge regarding individuals affected by the situation of violence. At the same time, it has strengthened community networks to ensure members' capability to take care of their children and to rely on themselves in the long term. The Ministry has also developed policy-steering mechanisms at both national and ministerial levels. Patterns and steps required for child care have been systematically institutionalized in terms of communications, media-based data dissemination, organizations of various public forums in the SBPs as well as personnel's capacity development and the establishment of remedy centres within the localities. Additionally, private entities have taken part in these efforts, including the Southern Border Provincial Women for Peace Association as already discussed in paragraph 18-20 above.

4. The promotion of women's potential and roles in the Southern Border Provinces

22. Women in the SBPs play active roles in the administration and development of their localities as members of the Advisory Council for the Administration and Development of Southern Border Provinces under the Southern Border Provinces Administrative Centre (SBPAC). Five female representatives out of a total of 49 council members are drawn from all walks of life in the SBPs. Each of these five women represents one of the five SBPs and serves as a council member for three years. In addition, the Advisory Council also includes approximately 10 qualified members who are well-versed in issues related to women, children, youth, elderly people and people with disabilities.

23. With respect to the NGOs, the Women For Peace Network Foundation was founded in 2012 with multiple objectives: creating a women's power network regarding peace and the inculcation of peace-based notions; encouraging the society as a whole to promote peace-building through collective actions of all groups across the society. In particular, the network helps to strengthen women's participation in political, economic, social, and cultural fields; and to create a body of knowledge related to peace concepts and peace-making processes. The examples of concrete projects to enhance women's capacity in peace-making processes through activities for the development of their potential and roles in the SBPs in February, 2013 are as follows. These projects are carried out in cooperation with the Institute of Peace Studies, Prince of Songkhla University.

(i) A forum was organized to collect inputs from representatives of female students at the Islamic Studies College at Prince of Songkhla University, Pattani Campus, with 20 participants from educational institutions comprising lecturers, researchers, and students. Women students were encouraged to express their perspective regarding the nature of peace they envisaged, which included happiness, physical and mental tranquility, obliging with the society, rationality, equity, and justice, etc. The exercise helped seek procedural approaches towards peace within the localities. All of the participants were enthusiastically interested in the discussion and wished to steer components in strengthening women's standing for peace-building in order to ensure that women be proud to find their own footing in the society. Participants agreed that approaches to peace take understanding, patience, forgiveness, open-mindedness, and appreciation of differences as well as esprit de corps, mutual help, and unity. In addition, there was an exchange of ideas and information so as to develop salient features of each locality to induce further awareness, which was expected to eventually culminate in the development of local wisdom for developmental purposes in subsequent stages.

(ii) Discussions were encouraged among women's groups in the SBPs to focus on peace, such as the Southern Border Provincial Women for Peace Association in Yala

Province. The president, association coordinators, researchers, and project coordinators took part in the discussions to collectively seek concrete and permanent approaches to peace-building in the Southern border provinces.

(iii) Activities were organized to gather information related to women's networks within the localities to promote cooperation and to encourage peace-building in situ in a concrete and practical manner.

II. Special laws applicable in the southern border provinces (paragraph 21)

24. The Royal Thai Government has promoted and protected individuals' rights as prescribed in the Constitution. The application of special laws in the three SBPs are therefore, based on human rights principles, with emphasis on transparency and accountability.

The Enforcement of Special Legislation in the SBPs

25. In light of the increasing intensity of the violent situations in the SBPs since 2004, Thailand has enforced special security legislation in order to cope with the situation in a timely manner, ensuring security for the public as a whole. The special legislation was also necessary to address diverse and complicated problems as well as the violence inflicted upon the public and state officials. The application of the regular Criminal Code and the Criminal Procedural Code alone is inadequate because their provisions are limited in relation to the collection of evidence, detention power, investigation and inquiries, as well as court hearings and proceedings. Moreover, the special legislation is required to facilitate officers' performance of their duties.

26. Three special security laws have been promulgated for enforcement in the SBPs: the Martial Law Declaration Act B.E. 2457 (1914); the Contingency Public Administration Emergency Decree B.E. 2548 (2005); and the Internal Security Act B.E. 2551 (2008). The deliberation upon the enforcement of the special security legislation is conditional upon specific situations and the intensity of particular incidents which may vary by each locality. At this point, the legislation constitutes only supplementary legal measures rather than the substitutes for the penal justice procedure. Additionally, in practice, security agencies have issued regulations, procedures and guidelines to serve as practical guidelines for officers for effective and efficient functioning. The aims of these detailed arrangements are to minimize any potential negative impact vis-à-vis members of the public and to promote respect for human rights. These guidelines apply to such practices as the performance of duties on the parts of the officers, searches, and arrests, and special attention is paid to local religious principles and culture.

Special Laws in the Three Southern Border Provinces

1. The Martial Law Declaration Act B.E. 2457 (1914)

27. The Martial Law Declaration Act B.E. 2457 (1914) authorizes the military to enact the martial law where issues related to the public order and state security both within and outside the country warrant it. Upon the promulgation of the martial law, the military is authorized to perform duties within the localities covered, pursuant to the conditions stipulated in order to ensure the law and order within the locality.

2. The Contingency Public Administration Emergency Decree B.E. 2548 (2005)

28. The Contingency Public Administration Emergency Decree B.E. 2548 (2005) can be enforced for a period of three months at a time. As a normal course of action, the Office of the National Security Council must propose the promulgation due to an imminent state of emergency to the Cabinet, who shall deliberate a periodic extension as appropriate. The Cabinet passed a resolution to annul the enforcement of the Contingency Public Administration Emergency Decree B.E. 2548 (2005) in certain localities on 29 December 2010, including Mae Lan district, Pattani Province. The application of the Martial Law Declaration Act B.E. 2457 (1914) was also annulled in 4 districts of Songkhla Province.

29. It should be emphasized that the Emergency Decree does not permit any arrest of suspects or detention at whim without time limitations, court proceedings, or a subpoena issuance. The suspects' families are allowed to visit the arrested family members on a daily basis. The suspects are also allowed for an access to legal counsel and may request for a bail arrangement. In addition, to ensure transparency of the system, representatives of the International Committee of the Red Cross, representatives of the National Human Rights Commission, UN representatives, and members of the diplomatic corps have been invited to visit suspect detention places.

30. Accountability and the rule of law is also guaranteed. An announcement by the Right Honourable Sobchoke Sukharom, the President of the Supreme Court, as published in the Government Gazette is referred to as "the President of the Supreme Court's Advice Regarding the Consideration of Arrest and Detention Requests Pursuant to the Contingency Public Administration Emergency Decree B.E. 2548 (2005)" dated 1 March 2011 is a reference guideline for upholding both accountability and the rule of law. It stresses the importance of the protection of rights and liberties of members of the public and the rule of law. The announcement also recommended guidelines for officials in lodging arrest and detention requests; guidelines for the Appeals Court in its consideration of such arrest and detention requests; considerations regarding the justification of the execution of any arrest and detention.

31. For example, the officials authorized to issue an arrest and/or a detention warrant shall have to submit a report to the court after the request has been in effect within 48 hours. Photos of the individual arrested as well as details of the place of arrest and other requirements have to be supplied to ensure the legality of the detention as well as to guarantee individuals' rights and liberties without discrimination. This Advice of the President of the Supreme Court has led to substantial revision and improvement of officials' performance of duties whereby suspects' and defendants' rights have been well protected.

32. When it is deemed necessary to file a criminal proceeding against a perpetrator of a violent incident, the officials concerned shall not apply arrest and detention measures. Rather, they are required to file a criminal suit against the individual in question immediately, pursuant to the Criminal Procedural Code, and the law on the establishment of sub-district courts and the criminal procedural law applicable to sub-district courts. The authorities are required to clearly notify the accused individual of his/her accusation and rights, and undertake a proper course of action: to request for litigation proceeding to be postponed or to seek a granted detention period, or to proceed with the litigation as appropriate. When the individual is a child or youth, such a case shall have to be administered under the Juvenile and Family Court Procedural Law,

33. The CERD Committee is concerned about the prevention of torture inflicted in the course of duty performance on the part of security officials. In this regard, Thailand has accorded special attention to individuals' rights and liberties in their life and body as provided for in the Constitution. Under no circumstance shall torture, torment, nor cruel

and inhuman forms of punishment be inflicted. Arrests, detention, physical searches or acts affecting individuals' rights and liberties may not be performed with the exception of acts executed by the virtue of law. In addition, a handbook on the application of special laws for handling security issues in the Southern border provinces, and the Advice of the President of the Supreme Court mentioned earlier, as well as various rules and regulations for the prevention of human rights violation have now served as support devices. Diverse complaint mechanisms have also been put in place through public organizations and the civil society. For instance, within the public sector, organizations in charge of monitoring, verification, and investigation in accordance with the Constitution are such as the Ombudsmen, and the National Human Rights Commission. In this regard, the judicial branch comprises the Constitutional Court, the Courts of Justice, and the Administrative Court, while the Ministry of Justice serves as the focal point in the administrative sector, in particular through its Provincial Justice Offices and the Rights and Liberties Protection Department. Equally important are diverse civil society organizations which have closely been monitoring and overseeing the functioning of state authorities to ensure that the latter conform to the laws and respect human rights.

3. The Internal Security Act B.E. 2551 (2008)

34. The Internal Security Act B.E. 2551 (2008), section 21 provides that courts are authorized to consider requests lodged by public prosecutors to make necessary arrangements such that an accused may attend orientation training courses in lieu of being faced with a criminal litigation proceeding. Such an alternative is allowed for individuals under the following circumstances: an individual accused of having committed an offence related to the Kingdom's security who has decided to surrender himself/herself or who has mistakenly or unknowingly committed such an offence. In this connection, to ensure uniform practices, the President of the Supreme Court (the Right Honourable Sobchoke Sukharom) issued a notification on 16 February 2011 to advise on how to allow an accused to attend an orientation training course in lieu of being charged with a crime pursuant to the Internal Security Act B.E. 2551 (2008). Certain practices are to be followed. Prior to the request's hearing, courts are required to inquire as to whether or not the accused agrees to attend an orientation training course and to comply with court-prescribed conditions. A training venue and training methods shall have to be clearly specified. Lastly, the training period shall not exceed six months, beginning on the date the court issues such an order.

35. The application of special laws in the SBPs is characterized by the fact that there have been efforts to progressively mitigate the situation, through more lenient and flexible approaches. This has been specifically demonstrated in the case of the shift from the Martial Law Declaration Act to the Contingency Public Administration Emergency Decree, and eventually to the Internal Security Act mechanism. Within the first framework, the military are authorized to promulgate the martial law and undertake actions within localities covered by this law with a view to restore law and order over an unspecified period of time. Meanwhile, under the second framework, the Contingency Public Administration Emergency Decree shall be applied over a set period of three months, and may be resubmitted for renewal. Under the Internal Security Act arrangement, more lenient courses of action exist. For example, the accused individuals have an option of attending a court-imposed orientation training course in lieu of criminal litigation proceedings.

In addition, Thailand has recently stepped up its efforts to redress this issue through peace-based methods, with special reference to negotiations with unrest perpetrators, starting with the first round of negotiation in February 2013. These negotiation efforts have accordingly met with progressive success, as is evident in the improvement of the situation during the months of Ramadan.

Training for security officials

36. In light of the application of special laws, it is necessary to ensure that officials perform their duty in these areas understand the legislative tools in place. In this connection, the Internal Security Operations Command (ISOC) Region 4 Forward Command set up a human rights division and has provided trainings prior to their operations on the ground. Also, an ISOC Region 4 Forward Command Operation Evaluation Center together with an ad-hoc task force have been put in place to regulate officials' performance of their duty.

37. With regard to arrests and searches, officials operate according to the evidence and data gathered without prejudice. For an arrest, a tripartite approval is required from the administrative, police, and military officials and legal requirements are to be stringently observed. When the use of force is required, the operation shall have to be in accordance with the operational procedures set forth by the security authorities. To assist such an operation, the Directorate of Intelligence, the Royal Thai Armed Forces Headquarters, developed a Handbook for Security Officers Performing Duties Related to Human Rights Obligations with basic legislation and special reference to operations in the SBPs, and a book called Human Rights and Basic Legislation for Security Officials .In addition, a guideline has been issued for regulating security authorities' operations vis-à-vis the accused parties or suspects arrested to ensure that these practices are implemented in compliance with relevant laws. The guideline is part of the policy enhance understanding among officials at all levels on human right principles, human rights laws, as well as relevant legislation. All these efforts constitute an additional arrangement to pre-empt and mitigate any human right violations on the part of state officials.

III. Asylum seekers and refugees (paragraph 25)

38. Information on this recommendation may be divided into two sections: (1) displaced persons; and (2) irregular migrants, which in this case refer to Rohingya irregular migrants.

1. Displaced persons

39. Thailand has been implementing its policies towards displaced persons over the past many decades based on humanitarian principles. Within the country's current system for the resolution of the issue of displaced persons from neighbouring countries, the Sub-committee on the Administration of Displaced Persons serves as the focal policy mechanism with the Secretary General of the National Security Council as the Chairperson, and representatives of agencies concerned as sub-committee members. In addition, a local operational mechanism – the Provincial Admission Board (PAB) – has been put in place. In each respective province, this Board is chaired by the Provincial Governor, with representatives of agencies located within the localities concerned and UNHCR representatives as board members.

40. When displaced persons cross over the border into Thailand, the military shall be the first point of contact, approaching the incoming individuals for regulatory purposes and assessing situations within the country of origin. If no violent situation has been identified, military officers shall facilitate the return of these displaced persons. Where it has been identified that situations within the country of origin are still unsafe, the Thai authorities shall procedurally deliberate upon possible protection measures for such displaced persons. The PAB shall consider the status of each individual Myanmar national requiring protection pursuant to the conditions stipulated by the Thai authorities. The UNHCR may lodge an appeal with the Appeal Board, requesting that a reconsideration process be undertaken.

41. The consideration of the status of displaced persons is undertaken by the PAB, which has developed a set of procedures and criteria for this purpose. In addition, the UNHCR has been working closely with the PAB to ensure that any such undertaking is in line with international standards. In a deliberation on whether or not to receive displaced persons into temporary shelter facilities, parties concerned shall take into consideration situations in the country of origin as well as humanitarian principles. The PAB may also consider the resettlement of individuals in a third country through a special fast-track arrangement in cases involving members of the same families, individuals with health problems, and individuals requiring special protection. Only individuals duly registered with the Ministry of Interior and the UNHCR are eligible for these special arrangements. In addition, the Ministry of Interior has prepared an operational handbook for distribution among the authorities concerned. Moreover, the UNHCR has also provided a list of displaced persons as yet unregistered in the 9 temporary shelters who wish to be reunited with their family members (1,129 families as of 5 July 2012) to officials in charge of the classification of displaced persons. This is to facilitate the officials' arrangements such that these individuals may live together with their family members within the temporary shelter facilities as appropriate.

42. The humanitarian assistance provided to displaced persons clearly demonstrates that Thailand does observe its human rights obligation in the country's actual dealings with this particular group of fellow human beings. Thailand has been improving and adjusting its operational approaches in response to the needs and requirements of displaced persons. The country has been revisiting its prospects for acceding to the 1951 Convention Relating to the Status of Refugees (CRSR) periodically. During each review, parties concerned would take into consideration relevant developments within the country and beyond, as well as take on board inputs from other sectors to ensure that each review encompasses the policy framework as well as improvements to the assistance provision framework.

2. Rohingya

43. Thailand has been extending assistance to persons of different nationalities and ethnic groups entering the country who are in need of protection, pending appropriate solutions in compliance with applicable international laws and obligations together with humanitarian and human rights principles. Also, the country has been revising and improving upon its policies and measures in order to respond more effectively and appropriately to changing situations.

In January 2013, more than 2,000 Rohingya people travelled in an irregular manner to Thailand. Although their entry into the country constitutes illegal entry pursuant to the Immigration Act B.E. 2522 (1979), Thailand designated agencies to supervise and make necessary arrangements to provide assistance to these Rohingyas in a systematic manner.

44. Thailand has developed both short-term and long-term measures to ensure that the Rohingya issue is dealt with in accordance with humanitarian principles. Long-term measures are implemented by the Office of the National Security Council (NSC), the focal point agency for operations in relation to the Rohingyas pursuant to the strategy for the resolution of the irregular migrant issue as per the Cabinet Resolution dated 24th April 2012. In this regard, the information on this matter was presented to the Committee on the Elimination of Racial Discrimination in Geneva during the last verbal presentation of Thailand's report in August 2012, during which the aforementioned strategy for the supervision of the irregular migrant handling was articulated and highlighted as being founded upon humanitarian principles. Thailand has been treating Rohingya immigrants in the same manner as displaced persons from its neighbouring countries, by relaxing certain rules to enable them to stay in Thailand temporarily, and subsequently encouraging and facilitating their return trips back to their countries of origin or to a third country as

appropriate on a voluntary basis. In this regard, Thailand has been undertaking measures in tandem with the United Nations High Commissioner for Refugees to ensure safety of the Rohingya immigrants.

45. As for short-term measures, all public agencies concerned have played a part in overseeing and providing necessary means in accommodating Rohingya immigrants. For example, the Ministry of Social Development and Human Security has implemented various short-term measures, including the provision of shelter to the children and women, while the Immigration Bureau has placed male Rohingya immigrants on its mandatory supervision list and the Ministry of Public Health has been in charge of health among Rohingya immigrants. These official support arrangements have been supplemented by additional support from across the country from members of the public who have donated ample supplies of basic food necessities. In the same vein, Muslim networks in Thailand expressed their readiness to assist the Rohingyas and have also provided support. The expulsion of these immigrants to the areas of origin, where dangers and unsafe conditions may still be present, is not deemed practical, taking into account also the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which Thailand is a state party. Meanwhile, the Ministry of Foreign Affairs has been assigned to disseminate information and negotiate with the countries concerned, as well as with relevant international organizations, for the resolution of the Rohingya issue.